

This is the third Office action for application serial no. 10/804,317, Holding Device for a Cooking Container Lid, filed March 18, 2004. Claims 5, 8-22, 24, 29, 30 and 32 are pending. Claims 12-16 and 24 are withdrawn from consideration.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 30 recites “a first transition step” and “a second transition step”, which is found at lines 16 and 18, respectively and appears to be a double inclusion of “a first center transition step” and “a second center transition step” which is found at lines 20 and 22. The inclusion of the same element twice makes the claim indefinite.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Helzer. Helzer teaches a device for holding an article (100) comprising a mounting base. The mounting base comprises a center section (10), a left wing section (80), a right wing section (80'), and an elongated sliding (50). The center section defines a slot (defined between 12, 14, 16). The left wing section is connected with the center section, wherein the left wing section further comprises a first retainer clip (82). The right wing section is connected with the center section, wherein the right wing section further comprises a second retainer clip (82'). The sliding member further comprises a third retainer clip (56) and the sliding member both travels within and is retained within the slot. The center section is spaced apart from both the left wing section and the right wing section. The center section is connected with the left wing section along a first edge by a first transition step (12). The center section is connected with the right wing section along a second edge by a second transition step (14). The slot is further defined by the first transition step is between the center section and the left section wing section. The second transition step is between the center section and the right wing section. A retention structure is connected with at least one of the left wing section and the right wing section and spanning a distance between the left wing section and the right wing section, wherein the retention structure further defines the slot. A retention structure ( ) is connected with at least one of the left wing section and the right wing section and spanning a distance between the left wing section and the right wing section, wherein the retention structure further defines the slot.

***Allowable Subject Matter***

Claims 8-11, 22, 29, 30 and 32 are allowed.

***Response to Arguments***

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Baxter whose telephone number is 571-272-6814. The examiner can normally be reached on Monday-Wednesday, 8:30am - 3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gwendolyn Baxter/  
Primary Examiner, Art Unit 3632  
January 31, 2008

<b><i>Application Number</i></b> 	<b>Application/Control No.</b> 10/804,317	<b>Applicant(s)/Patent under Reexamination</b> KIXMOELLER, KENNETH BROWNE	
	<b>Examiner</b> Gwendolyn Baxter	<b>Art Unit</b> 3632	